

**ENTERED**

September 06, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

UNITED STATES OF AMERICA, §  
§  
§  
VS. § CRIM. ACTION NO. 5:22-CR-1439  
§  
§  
MARSHALL STEVE MERRIMAN §

**ORDER**

Pending before the Court is Defendant Merriman's Motion to Dismiss Indictment. (Dkt. No. 18). The Court has also received Government's Response, Government's Supplemental Response, Defendant's Supplemental Brief, Defendant's Advisory to the Court, and Defendant's Notice of Supplemental Authority. (Dkt. Nos. 22, 29, 31, 36, and 40).

The Court hereby **SETS** a hearing before the Undersigned on **September 18, 2023, at 10:00 a.m.** At the hearing, the Parties should be prepared to answer the following questions:

- 1) How does a firearm's functionality or design contribute to a determination of whether the firearm is "in common use"? *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111, 2143 (2022). Does the reason behind a person's or group of persons' desire to carry a particularly configured firearm matter to the Court's determination of whether that firearm is "in common use"?
- 2) Can a historical law from a single state or colony constitute a national historical tradition of regulation? *United States v. Rahimi*, 61 F.4th 443,

458 (5th Cir. 2023). If it cannot, how many historical state or colonial laws should be required for the tradition of firearm regulation to be considered “the Nation’s”?

IT IS SO ORDERED.

SIGNED this 5th day of September, 2023.



Christopher dos Santos  
United States Magistrate Judge